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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 DANIEL BLANCHARD, by his parents,
12 CHERYL BLANCHARD and JERRY
13 BLANCHARD; CHERYL BLANCHARD and
14 JERRY BLANCHARD,

15 Plaintiffs,

16 v.

17 MORTON SCHOOL DISTRICT; JOHN
18 FLAHERTY; JOSH BROOKS; DAVE
19 CRAYK,

20 Defendants.

21 Case No. C06-5166 FDB

22 ORDER DENYING MOTION TO
23 RECOVER COST OF SERVICE OF
24 SUMMONS

25 Plaintiff Cheryl Blanchard seeks an order pursuant to Rule 4(d)(2) for recovery of costs
26 incurred in effectuating service.

27 The Federal Rules of Civil Procedure provide for waiver of service of a summons in certain
28 circumstances. Individual defendants who receive notice in the manner outlined in Rule 4(d)(2) have
29 a duty to avoid unnecessary costs of service of a summons and instead can waive service. The notice
30 requirements include, among other things, that the notice and request be addressed directly to the
31 individual defendant and that the plaintiff provide the defendant with a prepaid means of compliance
32 in writing. Rule 4(d)(2)(A) & (G). The waiver provisions do not apply to a governmental entity

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36 ORDER - 1

1 defendant. Rule 4 (d)(2). Service upon a local governmental organization shall be effected by
2 delivering a copy of the summons and of the complaint to its chief executive officer or by serving the
3 summons and complaint in the manner prescribed by the law of that state for the service of summons
4 upon any such defendant. Rule 4(j). Accordingly, the School District is not subject to the costs
5 Plaintiff incurred in effectuating service.

6 Plaintiff Cheryl Blanchard also failed to comply with Rule 4(d)(2) in regard to the individual
7 defendants. Plaintiff did not send the individual defendants notice of the lawsuit and request for
8 waiver by mail or other reliable means, but sent them to the attorney that represented the Morton
9 School District in the related litigation. This attorney was not the attorney of record of the individual
10 defendants, nor empowered to accept service of process on their behalf. The individual defendants
11 are not subject the cost recovery provisions of Rule 4(d)(2) having not been properly served
12 pursuant to Rule 4(d) or 4(e).

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ACCORDINGLY,

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IT IS HEREBY ORDERED:

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Plaintiff Cheryl Blanchard's Motion to Recover Cost of Service of Summons [Dkt. #21] is
17 DENIED.

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DATED this 16th day of August, 2006.

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A handwritten signature in black ink, appearing to read "Franklin D. Burgess". It is written in a cursive style with a long horizontal stroke extending from the left side of the signature towards the right.

FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE

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ORDER - 2